GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – East Godavari District - Revision Petition filed by Sri Tadipudi Moses, S/o.Dharmadas, Rampachodavaram (V&M), East Godavari District against the orders of the AAG Dated: 30.09.2011 in C.M.A.No.03/2011 in respect of land admeasuring Acs. 0.05 cts of land in Sy.No. 125 situated at Rampachodavaram (V) & (M) East Godavari District - Dismissed – Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.MS.No. 4 Dated: 08-01-2016

Read the following:-

1. Revision Petition filed by Sri Tadipudi Moses, S/o.Dharmadas, Rampachodavaram (V&M), East Godavari District dated:21.01.2006.
2. Govt.Memo.No.15710/LTR-2/2011, dt. 08.02.2011.
3. From the Additional Agent to Government & Project Officer, ITDA, Rampachodavaram, East Godavari District CMA No.3 of 2011, dt.4.4.2012.
4. Govt.Lr.No.4125/LTR-2/2005, dt.26.05.2015.

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ORDER:-

In the reference first read above, Sri Tadipudi Moses, S/o.Dharmadas, Rampachodavaram (V&M), East Godavari District has filed a Revision Petition before the Government against the orders of the Additional Agent to Government in CMA No.03/2011, Dated:03.09.2011, wherein the Additional Agent to Government, Rampachodavaram dismissed the Appeal upholding the order passed by the Special Deputy Collector (Tribal Welfare) Rampachodavaram in LTRP No.109/2007 dated 14.06.2010.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Additional Agent to Government & Project Officer, ITDA, Rampachodavaram to furnish the parawise remarks and connected case records on the Revision Petition , so as to dispose off the Revision Petition at Government level.

3. In the reference 3rd read above, the Additional Agent to Government & Project Officer, ITDA, Rampachodavaram, East Godavari District has furnished parawise remarks along with the connected records.

4. The facts of the case in brief are:

The Special Deputy Collector cum Agency Divisional Officer, Rampachodavaram by his orders in LTRP No.109/2007, dated 14.06.2010 has held that the land measuring an extent of Ac.0.05 cts in Sy.No.125 situated at Rampachodavaram which is in possession and enjoyment of the Revision Petitioner herein (who is the respondent in the said LTR) is contrary to Sec.3 of AP Schedule area LT Regulation 1 of 59 as amended by regulation 1 of 70 mainly on the ground that the Revision Petitioner did not obtain prior permission from the Agent to Government as required under Sec.3(1) and (2) of APSCLTR 1/59 and hence the alienation if any is null and void. In fact the Special Deputy Tahsildar filed application for the ejectment of Revision Petitioner from petition schedule property and for delivery of the same to Government. The said matter was held against the Revision Petitioner by Special Deputy Collector (Tribal Welfare) whereby the Revision Petitioner was ordered to be evicted from the Petition schedule property. Against the same, the Revision Petitioner filed Appeal CMA 3/2005 before the Additional Agent to Government , Rampachodavaram who dismissed the said Appeal confirming the order of Special Deputy Collector (Tribal Welfare). Aggrieved by the same the present Revision Petition.

(P.T.O)

5. For the sake of convenience, the parties to the Revision are referred to as Revision Petitioner and the respondents as shown in the Revision Petition.

6. The point for consideration is whether the order of dismissal of the Appeal passed by the Agent to Government by confirming the order of Special Deputy Collector (Tribal Welfare) is valid and sustainable under law or the same is liable to be interfered with.

7. The above Revision Petition having been stood over for consideration till 13.06.2015 before the Government and the matter having been heard in the presence of both parties on 13.06.2015, the Government passes the following orders.

8. On behalf of the Revision Petitioner, it is contended that Petition Schedule land is classified as Village site and the Petitioner is in possession of the same from several years mainly since the times of his predecessors and the Petitioner constructed the RCC slabbed house and he filed the above Revision Petition alleging that the order of his eviction from the above land is in Gramakantakam and it does not belong to Government. The LD Advocate also argued that the Gramakantakam is not Government land and the provision envisaged under Regulation 1 of 59 does not apply to Gramakantakam lands. He also relied on a judgment of Hon'ble High Court of AP delivered in W.P.No.1339/2014 and batch dated 6.3.2014.

9. By the said judgment the learned Advocate argues that the Gramakantakam lands are not Government lands and there is no provision to prohibit the transactions on the said lands.

10. The said proposition of law is not acceptable to the case on hand as the said judgment of Hon'ble High Court of Andhra Pradesh is with regard to the Villages/Towns/Municipalities in plain areas where the AP Schedule Area Land Transfer Regulation 1/59 or 1/70 is not applicable. obviously on plain reading of Section 3 of LT Regulation, it can be understood that there is a presumption that the immovable property in agency area shall be presumed to have been acquired in violation of Section 3 and hence it shall be null and void unless it is proved that the same is in accordance with the other provisions of the Act Sec.3(1) (a) (b) are extracted here under:

"Sec.3: Transfer of immovable property by a member of a Schedule Tribe:-

1(a) Notwithstanding anything by enactment, Rule or law in force in the Agency tracts any transfer of immovable property situated in the Agency tracts by a person. Whether or not such a person is a member of a Schedule Tribe, shall be absolutely null and void, unless such transfer is made in favour of a person who is a member of Schedule Tribe or a Society registered or deemed to be registered under the Andhra Pradesh Cooperative Societies Act, 1964 (Act 7 of 1964) which is composed by Society members of the Schedule Tribe.

1(b) Until the contrary is proved any immovable property situated in the Agency tracts and in the possession of a person who is not a member of Schedule Tribe, shall be presumed to have been acquired by person or his predecessor in possession through a transfer made to him by a member of a Schedule Tribe".

11. The order of the Additional Agent to Government which is impugned herein discloses that the Revision Petitioner failed to show any document of title even though a lot of opportunity was given to him to prove his title, basically heavy burden lies on non-tribe who claims right and title in an Agency Area, as per Sec. 3(1) and (b) of LTR 1/59 ambled by result as amended by regulation 1/70.

12. The Hon'ble Supreme Court in C.A.No.4601 and 4602 of 1997 and batch in Samath Vs. Government of AP has held that the transfer of land by juristic person or allotment of land by State to a non tribe is prohibited.

13. Further the of Hon'ble High Court of A.P. (full Bench) as reported in AIR 1982 AP (1) has held that any transfer in favour of a non-tribe is prohibited and also held that the Land

Transfer Regulation 1 of 59 strictly prohibits even the transfer of land by a non-tribe to a non-tribe except with permission of Agent to Government, such a facility in favour of non-tribe was taken away by Regulation 1 of 70 which prohibits any transaction in favour of anybody except a tribe.

14. Even such a embargo against sale in favour of non tribe is there even under the Agency Tracts Interest and Land Transfer Act 1917, unless it is with the previous consent in writing of Additional Agent to Government.

15. As such it is obvious that the order of Special Deputy Collector (Primary authority) holding that the Revision Petitioner is liable to be ejected for his failure to prove his right and title is perfectly right and hence the learned Special Deputy Collector has ordered his eviction and the same was upheld by learned Additional Agent to Government.

16. Even though several opportunities were given to Revision Petitioner he could not produce any document much less, registered document. Hence the Government/Revision Authority is compelled to infer that the Revision Petitioner who is a non tribe does not have any document, much less with the previous sanction of Agent to Government is liable to be rejected.

17. The Revision Authority has not found any merit in the case of Revision Petitioner, the arguments advanced by the learned Counsel are not palatable to law.

18. There is no infirmity found either in the order of the Learned Special Deputy Collector, Rampachodavaram or Additional Agent to Government, Rampachodavaram. Accordingly the Revision Petition is dismissed.

19. The Additional Agent to Government, Rampachodavaram, East Godavari District is requested to take necessary action in the matter accordingly.

20. The original record bearing CMA No.03/2011, received from the Additional Agent to Government & Project Officer, ITDA, Rampachodavaram, East Godavari District, through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Kakinada, East Godavari District.
The Additional Agent to Government & Project Officer, ITDA
Rampachodavaram, East Godavari District.(w.e.)
The Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District.
Copy to:
Sri Kola Satyaprasad, Advocate, R/o.Near RTC Complex, Rampachodavaram, E.G.District - 533388.
Sri Tadipudi Moses, S/o.Dharmadas, Rampachodavara (V) & (M), East Godavari District.
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER